

Planning Commission

Regular Session Agenda

July 7, 2009

6:00 P.M.

1. Call to Order; Roll Call
2. Invocation and Pledge of allegiance
3. Public Comment Period
4. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
5. Old Business
 - a. Alternative Energy – Wind Turbine ordinance
 - b. Setbacks in the R-1 zone – nonconforming lots
6. New Business
 - a. None
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION

Regular Session

Town Hall
June 15, 2009

At approximately 6:02 p.m. in the Town Hall, Chairwoman Joan Natali called to order the Regular Meeting of the Planning Commission. In addition to Chairwoman Natali, present were Commissioners Malcolm Hayward, Dennis McCoy and Roger Munz. Also present was Town Clerk Libby Hume. Town Planner Tom Bonadeo was not in attendance. There were no members of the public in attendance.

PUBLIC COMMENTS

No one from the public signed up for comments and no written comments were submitted prior to the meeting.

CONSENT AGENDA

Hearing no objections, Joan Natali stated that the agenda was approved as presented by unanimous consent.

The Commissioners reviewed the minutes for the May 5, 2009 Joint Public Hearing with the Town Council and the May 5, 2009 Regular Session.

Hearing no objections, Joan Natali stated that the minutes for the May 5, 2009 Public Hearing with the Town Council were approved as presented by unanimous consent. Malcolm Hayward abstained stating that he was not in attendance at the meeting.

The Commissioners reviewed the minutes for the May 5, 2009 Regular Session.

Hearing no objections, Joan Natali stated that the minutes for the May 5, 2009 Regular Session were approved as presented by unanimous consent.

REPORTS

The Commissioners reviewed the Staff Report and discussed the \$2000 Tourism Infrastructure Grant received by the Town to implement a web cam. Malcolm Hayward stated that the Town will use the \$2000 to purchase a nice web cam and Tom Bonadeo had made arrangements with Bay Creek to have Bay Creek Communications install the web cam on the roof of the Aqua Restaurant. Malcolm went stating on that the first choice was to have the web cam mounted on the fishing pier, but electricity and network connectivity were major issues.

OLD BUSINESS

Alternative Energy – Wind Turbine Ordinance

The Commissioners reviewed portions of the wind energy ordinances from Currituck County, NC and Rockbridge County, VA. There was much discussion regarding the various sizes of wind turbines and that the micro wind turbines would be the most popular in Cape Charles since the lot sizes in Town were much smaller than the 20K SF which is the minimum suggested lot size for a small system. Malcolm Hayward suggested wording in the new ordinance stating that only micro systems would be permitted but Joan Natali pointed out that there were several parcels in Town that were larger and could accommodate a small, intermediate and even a large

system. Roger Munz suggested general language for wind turbines but include a more detailed section focusing on the micro system.

There was much discussion regarding the setbacks and roof placement for micro systems as well as language to allow the installation of the micro turbines in commercial and residential zones. Fall zones were also discussed but the Commissioners felt that fall zones pertained more to the larger free-standing systems vs. the rooftop micro systems.

The Commissioners requested copies of the guidelines and criteria from the VA Dept. of Mines, Minerals and Energy (MME) and suggested that the MME criteria be inserted at the beginning of the wind energy ordinance including their web address, if any, so citizens could review the criteria prior to making any decisions regarding the installation of a wind turbine on their properties. It was also noted that language should be included requiring installation be performed by a licensed electrician, especially if the property owner was going to be going into the electricity grid. There was also some discussion regarding permitting multiple micro systems on a building (duplexes, apartments, condos, commercial buildings and hotel).

Roger Munz suggested the institution of a moratorium, if permissible in the State of VA, on the installation of wind turbines until the proper ordinances could be approved. Roger Munz also suggested that the Commissioners go online to research the different types of wind turbines in preparation for the July meeting.

In review of the Currituck County, NC ordinance, the Commissioners discussed the following: i) Item B.1.f. may not pertain to micro systems. Need to get the height requirements regarding FAA regulations; ii) Item B.1.h. needs to be updated to the State of VA and applicable agencies; iii) Item B.1.j. needs to have added language re: the removal of micro systems that are no longer in use; iv) In the table in Item C.1., "Micro System" needs to be added. The Minimum Lot Size should show "Conforming Legal Lot in Town" and the setbacks for the individual categories within the table are unknown. "Hwy 158, Hwy 168, and NC 12" should be replaced with "Rte 184 and Rte 642." The "Maximum Height from Grade" should show "15 ft from the peak of the roof." The Commissioners discussed whether or not to add "Intermediate or Medium System" but agreed to concentrate on the micro systems at this point and the intermediate system information could be discussed in more detail at a later date; v) There was some discussion regarding Item D.4.a. and whether it would be better to require a *powder coated* finish vs. galvanized finish since a galvanized finish has a tendency to rust and powder coated would be easier to repaint, if necessary; vi) Item E.1. was revised to read "The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if *system is non-operational and* no electricity is generated for a continuous period of 6 months." Dennis McCoy suggested adding language regarding the system not meeting the manufacturer requirements or if there is a vibration or noise being emitted. There was some discussion regarding a sound ordinance and Joan Natali stated that Tom Bonadeo suggested that if a sound ordinance is established, it should be included in a section pertaining to all districts. The Commissioners agreed that the Definitions from both the Currituck County and Rockbridge County ordinances should be merged.

The Commissioners stopped their review after Section 715.02 of the Rockbridge County, VA Final Small Wind Energy Ordinance.

Setbacks in the R-1 Zone – Nonconforming Lots

Discussion regarding this item was tabled to the July meeting.

NEW BUSINESS

There was no New Business to be discussed.

ANNOUNCEMENTS

There were no Announcements.

Hearing no objections, Joan Natali adjourned the Planning Commission Regular Meeting by unanimous consent.

Chairwoman Joan Natali

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 7, 2009

Item: 4C – Reports

Attachments:

Item Specifics

1. The Northampton County website is www.co.northampton.va.us and contains the updated information from county meetings.
2. Cape Charles Town Council has not met since the Commissions last meeting.
3. The Council sponsored a public hearing on portions of the WWTP regarding the Environmental Assessment. NO members of the general public spoke and S&W gave a presentation covering the history of the project, environmental assessment, alternatives and costs.
4. The Wetlands Board has rescheduled the June 29th public hearing for late in July due to a notification error.
5. The Planner attended a Grant Management Training Workshop required by DHCD for administration of the Broadband Grant. This was very helpful for this grant and other grants involving federal funds.
6. The Town has signed a contract for a Tourism Infrastructure Grant for \$2000 to implement a web cam. This project will be implemented with the help of Bay Creek and provide a new look for websites related to Cape Charles.
7. The Historic District Review Board held a meeting last month to review.

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 7, 2009

Item: 5A – Modification of section 4 for Wind Turbines

Attachments: Draft Ordinance per Commissions, FAA lighting regulation

Item Specifics

The ordinance from Currituck County is the basis for this ordinance. Currituck is a rural county and as such has much larger lot sizes than Cape Charles. An additional category of turbine has been added called micro system.

Discussion

The minutes from the June meeting were the basis for the draft ordinance provided here. Staff incorporated those requirements and made updates as required.

After creation of the draft ordinance there are sure to be many topics for discussion. Outside review may be helpful as well.

Recommendation

Review and correct the draft ordinance as presented.. Ask Drs. Papadakis and Miles from JMU to review and comment on the ordinance.

Section 4.12 Wind Turbines

A. Statement of Intent.

The intent of this ordinance is to regulate the placement, construction and modification of wind energy systems while promoting the safe, effective and efficient use of the wind energy resource and wind energy systems while not interfering with the development of independent renewable energy sources. Wind Energy Systems meeting the requirements will be allowed by Conditional Use Permit.

B. Applicability

The requirements set forth in this section shall govern all zones and wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws (Code of Virginia, 56.594), serve as an independent source of energy or serve in a hybrid system.

Wind Energy Systems Setback Matrix

	Minimum Lot Size	Minimum Setback Requirements ¹					Maximum Height from Grade
		Occupied Buildings (Subject Property) ²	Occupied Buildings (Adjacent Prop.) ^{2,3}	Property Lines ²	Public/Private Right-of-Way	Hwys 184 & 642	
Anemometers	20,000 Sq. Ft.	1.0	1.5	1.0	1.5	2.5	120 Ft.
Micro System	5,600 Sq. Ft.	0.0	1.0	1.0	1.5	1.0	N/A
Small System	20,000 Sq. Ft.	0.0	1.5	1.0	1.5	2.5	120 Ft.
Large System	5 Acres	1.0	2.0	1.0	1.5	2.5	250 Ft.
Utility System	25 Acres	1.5	2.5	1.5	1.5	2.5	500 Ft.

¹ Measured from the center of the wind turbine base to the property line, ROW, or nearest point on the foundation of an occupied building.

² Calculated by multiplying the required setback number by the wind turbine height.

³ This setback proposes to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent property or work site.

1. As part of the Conditional Use Permit Process the setback requirements may be waived if the following conditions are met:
 - a. Property owners may waive the occupied building setback requirements on both the subject property and/or the adjacent properties, and the property line setback requirements for Small System wind turbines with a tower height of 60 feet or less, by executing a signed waiver that sets forth the applicable setback provisions and proposed changes.
 - b. The Written waiver shall notify the applicable property owners of the setback required by this ordinance, describe how the proposed wind turbine and/or wind energy facility is not in compliance and state that the consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance.
 - c. Any such waiver shall be signed by all affected property owners and be recorded in the Northampton County Clerks office. The waiver shall describe the properties benefited and/or burdened, and advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

C. Definitions

Anemometer – Measures the wind speed and may transmit wind speed data to the controller.

Hybrid System – An energy system that uses more than one technology to produce energy or work (for example a wind/solar system)

kW – Kilowatt

mW - Megawatt

Tower – The structure on which the wind system is mounted.

Tower Height – The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

Wind Energy Facility – An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and building, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large System – A system which has a rated capacity of not more than 999kW.

Wind Energy Facility, Micro System – A building mounted wind system that has a manufacturer’s rating of 10kW or less and projects no more than 15 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the are a of setback requirements.

Wind Energy Facility, Small System – A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

Wind Energy Facility, Utility Scale – A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1MW or greater.

Wind Farm – See “Wind Energy Facility – Utility Scale.”

Wind Power – Electrical Power generated by wind driven turbine blades turning an electrical generator.

Wind Pump – A type of windmill used for pumping water from a well or pond.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height – The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill – A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

D. Conditional Use Permit Requirements

1. The application shall demonstrate that the proposed wind energy facility will comply with this ordinance and shall contain at a minimum the following:
 - a. A narrative describing the proposed wind energy facility;
 - b. The approximate generating capacity of the wind energy facility;
 - c. The specific number, representative types and height or range of heights of the wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers and description of ancillary facilities;
 - d. Identification and location of the properties on which the proposed wind energy facility will be located;

- e. A plot plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties with the geographical boundaries of any applicable setback;
 - f. Evidence of compliance with Federal Aviation Administration regulations;
 - g. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics.
 - h. An Environmental Impact Analysis (EIS) for utility scale wind energy facilities, which shall include review and comments from the applicable state and federal agencies, including but not limited to, Virginia Department of Mines, Minerals and Energy, DNR, USACE, US Fish and Wildlife and a completed Virginia Renewables Siting Scoring System (VRS3).
 - i. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for the decommissioning and restoration and the anticipated manner in which the wind power project will be decommissioned and the site restored;
 - j. Signature of the property owner(s) and the facility owner/operator of the energy facility;
 - k. Other relevant studies or reports that may be reasonably requested by the Town of Cape Charles to ensure compliance with this ordinance.
2. Throughout the permit process the applicant shall promptly notify The Town of any changes to the information contained in the permit application.
 3. Changes to the pending application that do not materially alter the initial site plan may be adopted administratively.

E. Installation and Design

1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of ANSI.
2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable local, state and national codes.

3. Small and Micro wind energy facilities shall not exceed 60 decibels as measured at the property line. The level, however, may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.
5. The visual appearance of wind energy facilities shall at a minimum:
 - a. Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;
 - b. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety;
 - c. Not display advertising, including flags, streamers or decorative items, except for the identification of the turbine manufacturer, facility owner and operator.

F. Decommissioning or Abandonment

1. The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.
2. Decommissioning shall include removal of the wind turbines, buildings, cabling, electrical components, roads and any other associated facilities.
3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. The required E&S measures shall be required.

**Airport Technology
Research And Development Branch**

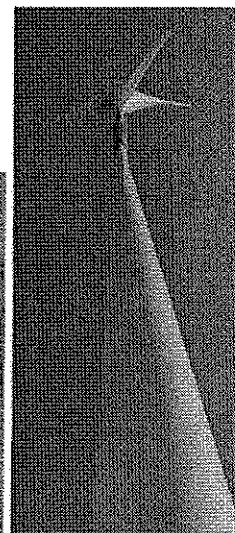
- * Airport R&D
 - News
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 - Conference & Workshop
 - Personnel
 - Visitors
 - Search This Site
- * Downloads
 - Pavement
 - Safety
- * Rescue & Firefighting
 - Training Fuels Study
 - Elevated Waterway
 - Small Airport System
 - Conductivity Meters
 - Alternative Agents
 - Vehicle Roll-Over
 - IIIVR
 - Firefighting foam agents
 - Fire Evaluations
- * Runway Surface
 - Arrestor System
 - Deicing Runways
 - Winter Ops
 - Skid Resistance
 - Taxiway Deviation
- * Operation of New Large Aircraft
 - Strategies
 - Second Level Access
 - Methodologies
 - Composites
- * Visual Guidance
 - Wind Farm Lighting
 - Solar Lights
 - Airport Markings
 - Taxiway Guidance
 - Fiber Optic RDR
 - Jet Blast Study
 - LED Evaluation
 - PAPI/A-PAPI
 - Approach Lighting
- * Airport Wildlife
 - Bird Strikes
 - Bird Strike ID

Configuration For Lighting Windmill Farms

FAA regulations require aircraft warning lights installed on all towers taller than 200 feet. Turbines on wind energy farms generally stand between 300 to 400 feet high. There could be more than 200 generators on stretches of land reaching for miles. Landowners are concerned that illuminating every windmill in a farm could add annoying light pollution to remote areas.

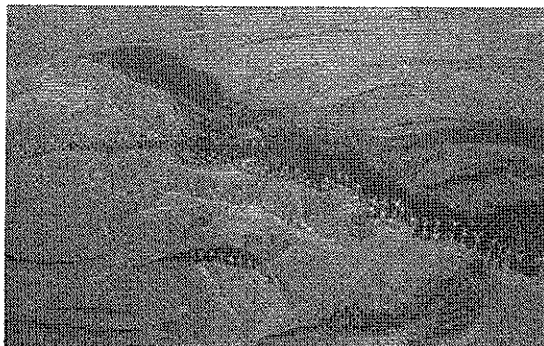


Wind farms could include 200 generators spread over miles and miles



Towers can reach 400 feet

Engineers visited eleven sites to come up with recommendations to enhance aviation safety while satisfying the concerns of neighbors. The Blue Canyon Wind Farm near Lawton, Oklahoma, consists of 43 turbines topped with only 17 lights. Visual guidance experts installed lights on windmills at each end of a row, then spaced lights on towers a half-mile apart. They have determined that configuration should be sufficient to indicate the farm to pilots, without creating light pollution for surrounding communities.



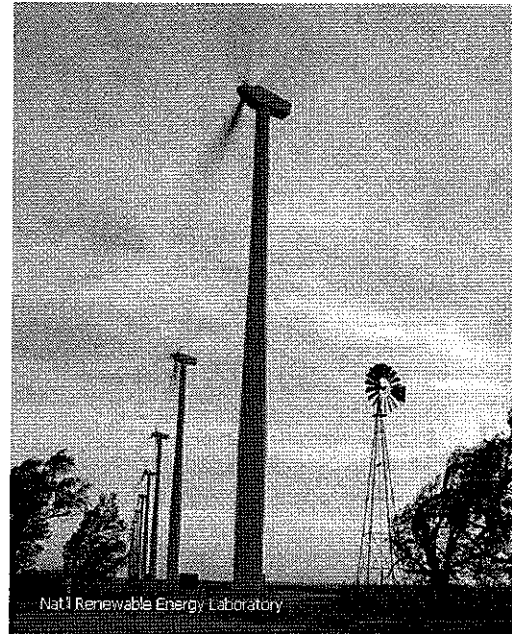
Wind power plants operate in 32 states

The U.S. Department of Energy reports, as of March 2004, wind power plants are operating in 32 states. Government experts hope wind will provide six percent of the nation's electricity by the year 2020. But standards must be established before a campaign to switch to alternative energy moves on.

Windmills have come a long way since the fictional Don Quixote mistook them for menacing giants.

But the modern versions' threat to air traffic must be addressed before America realizes the "impossible dream" of alternative energy sources, as well as assist in lighting the way for the rest of the world. European nations are among those currently in the FAA's efforts on the wind farm project. The final report, expected in

2005, will likely result in an Advisory Circular determining the future of wind farm lighting in the U.S.



Advisory Circular expected in 2005

Contact Project Lead: Jim Patterson, AAR-411

Last Update:05/18/09

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Planning Commission Staff Report

From: Tom Bonadeo
Date: July 7, 2009
Item: 5B - Setbacks in the R-1 Zone
Attachments: Map

Item Specifics

Staff identified several nonconforming lots that would be difficult to build on or to reconstruct a contributing historic structure without a zoning variance. This presents a strong conflict between our Historic District Overlay Ordinance and our R-1 Zoning Ordinance. It also creates a difficulty for the zoning variance process. The variance process requires that the "hardship not be shared by other properties in the same zone or neighborhood".

Discussion

While the overall setbacks are problematic for these lots, the problem is more than a zoning issue. There are three setback issues:

1. Front setback according to the ordinance is 30 feet or existing. This is generally not the issue and need not be part of this discussion.
2. The rear yard setback is problematic for these lots as many are only 35 or 40 feet from front to rear. These lots are generally next to other lots of similar size and therefore, using a neighboring lot to judge the rear setback would be workable. The building code requires a 5 foot setback from a buildable lot or certain construction methods and restrictions are imposed. A rear yard setback of 5 feet should be a minimum.
3. The side yard setback on many of these buildings is on or near the lot line. If the building is to be repaired, no action is required. If the building is to be rebuilt within the same footprint, the new construction building code would require a 5 foot setback for standard construction. If the setback is between 3 feet and 5 feet certain requirements are imposed and if the setback is between 0 feet and 3 feet additional requirements are imposed. These requirements are related to window and door openings, fire rated walls and fire protected windows and doors. The restrictions imposed for reduced side setbacks would generally be in conflict with the Historic Restoration Guidelines and therefore only in certain circumstances should be allowed.

Recommendation

Review the map and quantity of lots in question. Request staff to prepare a modification to the ordinance to except certain lots from the rear yard setback. Suggest other possible adjustments that may be required.

WASHINGTON AVENUE

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NECTARINE STREET

114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200
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JEFFERSON AVENUE

NECTARINE STREET

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PLUM STREET

170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200
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VENUE

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MONROE AVENUE

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NECTARINE STREET

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TAZEWELL AVENUE

536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600
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589	590	591	592	593	594	595	596	597	598	599	600
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PLUM STREET

N AVENUE

N

71	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112
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288	289	290	291	292	293	294
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296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322
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394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420
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506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544
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617A	618	619	620A	621	622	623	624	625A	626	627	628	629	630	631	632A	633	634	635	636	637A	638	639	640	641	642	643	644
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STRAWBERRY STREET

STRAWBERRY STREET

85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112
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197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224
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296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322
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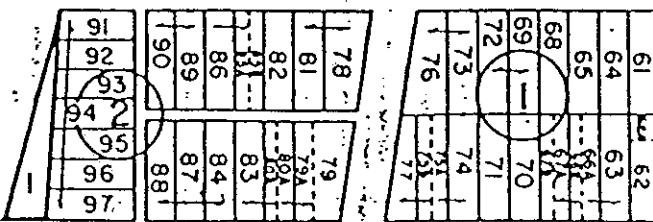
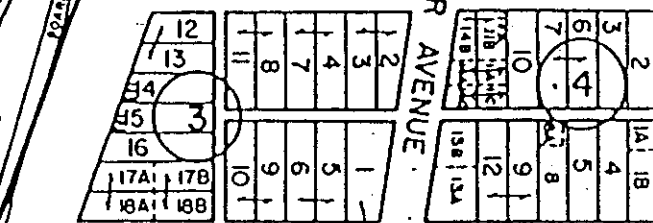
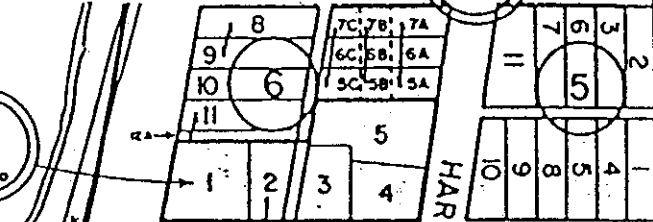
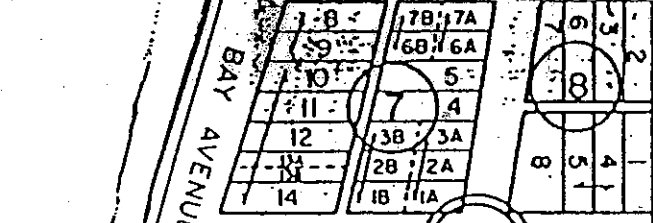
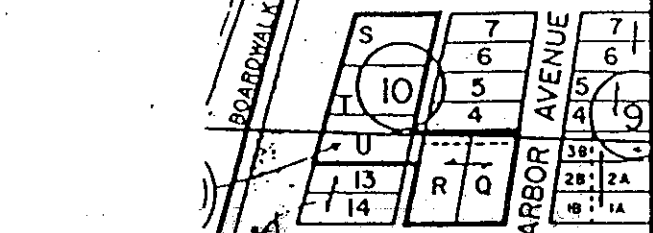
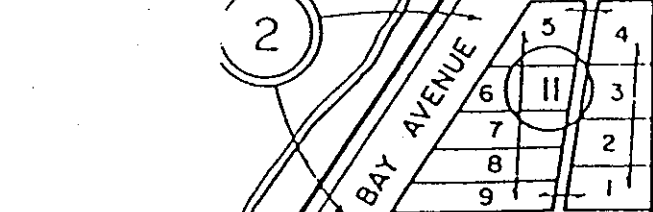
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506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544
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617A	618	619	620A	621	622	623	624	625A	626	627	628	629	630	631	632A	633	634	635	636	637A	638	639	640	641	642	643	644
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PINE STREET

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